



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

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**APR 30 2014**

Ref: EPR-N

Bronson Smart, State Engineer  
National Resource Conservation Service-Utah  
Wallace F. Bennett Federal Building  
125 S. State Street – Room 4010  
Salt Lake City, UT 84138-1100

Re: Green River/Tusher Diversion Rehabilitation  
Project Draft Environmental Impact Statement  
CEQ # 20140071

Dear State Engineer Smart:

In accordance with our responsibilities under Section 102(2) (C) of the National Environmental Policy Act (NEPA), and Section 309 of the Clean Air Act (CAA), the U.S. Environmental Protection Agency Region 8 has reviewed the March, 14, 2014 Green River/Tusher Diversion Rehabilitation Draft Environmental Impact Statement (Draft EIS) by the U.S. Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS). It is the EPA's responsibility to provide an independent review and evaluation of the potential environmental impacts of this project. This includes a rating of the environmental impacts of the proposed action and the adequacy of the Draft Environmental Impact Statement (Draft EIS).

**Project Description**

The Green River/Tusher Diversion, constructed in the early 1900s, was damaged by flows in the Green River during 2010 and 2011 flood events. The Draft EIS states that in the event of diversion failure due to future flood or high flow conditions, water service to three irrigation canals, the City of Green River, a historic irrigation water delivery system, and one hydropower plant would be eliminated. The Draft EIS also states that rehabilitating the diversion would directly result in these resources remaining usable for the water rights holders.

The NRCS and Utah Department of Agriculture and Food (UDAF) analyzed alternatives for:

- maintaining the existing functions of the diversion for water delivery,
- upgrading the diversion structure to current design standards,
- maintaining some features of the historic character of the diversion dam,

- providing upstream and downstream fish passage, fish tracking and fish screening, and
- providing enhanced sediment sluicing, and downstream recreational boat passage.

Fish protection and passage components are proposed in one alternative for inclusion in the project to meet Endangered Species Act requirements for listed fish species populations in the Green River. The boat passage provision is a navigability requirement of the State of Utah.

### **The EPA's Comments and Recommendations**

The EPA appreciates that in September 2013, the NRCS sent notification to several interested parties and stakeholders that the NRCS determined the proposed rehabilitation project will adversely affect the Tusher Diversion Dam and the East Side Canal which are both significant historic structures. This determination led to elevating the NEPA analysis from an Environmental Assessment to preparation of a Draft EIS.

The EPA appreciates the comprehensive alternatives analysis provided in the Draft EIS in response to all comments during the project scoping and public comment period.

The EPA also appreciates identification and analysis of alternatives that intend to increase the efficiency and flood resiliency of the diversion dam structure while enhancing fish passage and recreational navigation features of the structure within the river system.

### **Aquatic Resources**

The EPA considers protection of aquatic resources to be among the most important issues addressed in any NEPA analysis where a project could adversely affect surface and ground water resources. The alternatives presented in the Draft EIS and the actions associated with the diversion dam rehabilitation project have the potential to adversely impact aquatic resources, including wetlands, streams, riparian areas, their supporting hydrology and hydrogeology. Two specific project actions likely to affect aquatic resources include raising the current dam elevation by one foot, and aggregate and sediment material removal below the dam. These actions are expected to affect fish nursery habitat, stream hydrogeology and potentially more wetland acres than the low number of temporarily affected wetland acres estimated in the Draft EIS.

The EPA recommends that the Final EIS clearly summarize and reference information included in the Draft EIS that could lead to mitigation of any possible adverse effects to aquatic resources at this site. This information includes dam design features, the Green River Canal Sediment Research effort, methods found in the Conjunctive Management of Surface and Ground Water in Utah management plan, The Preliminary Wetland Inventory memo (not found in Appendix C as referenced in the DEIS [2.2.6.] and stream flow modeling predictions that specifically support how aquatic resources listed above will not be adversely affected. The EPA recommends the Final EIS add monitoring and documentation procedures to identify any unforeseen construction or post-construction impacts to aquatic resources, such as wetlands, habitat and hydrogeology. The EPA also recommends that the Final EIS identify what mitigation measures will be

implemented if adverse impacts are identified for any of the aquatic resources listed above, during and after completion of construction.

The Draft EIS identifies that the U.S. Fish and Wildlife Service, a Cooperating Agency for the proposed action, has been consulted and has provided significant input to the alternatives identified in the Draft EIS. The Draft EIS does not yet include a completed Biological Assessment. Because the Biological Assessment may provide important information to inform this decision, the EPA recommends the NRCS allow a period of time for the public and stakeholders of record to provide input with the benefit of a completed Biological Assessment and Opinion prior to a Final EIS or Record of Decision.

### **The EPA's Rating**

Consistent with Section 309 of the CAA, it is the EPA's responsibility to provide an independent review and evaluation of the potential environmental impacts of this project. Based on the procedures the EPA uses to evaluate the adequacy of the information and the potential environmental impacts of the proposed action, the EPA has rated the alternatives in the Draft EIS as "Environmental Concerns - Insufficient Information" (EC-2). The EPA's review identified environmental impacts that should be avoided in order to fully protect the environment and this letter provides recommendations to resolve those concerns. The draft EIS does not contain sufficient information to fully assess environmental impacts that should be avoided in order to fully protect the environment. We identified additional information, data, analyses, or discussion that should be included in the Final EIS.

A description of the EPA's rating criteria is available at: <http://www.epa.gov/compliance/nepa/comments/ratings.html> We hope that our comments will assist you in further reducing the environmental impacts of this project. We appreciate the opportunity to review and comment on this Draft EIS. If we may provide further explanation of our comments, please contact me at 303-312-6704. You may also contact Nat Miullo, lead reviewer for this project, at 303-312-6233, or [Miullo.nat@epa.gov](mailto:Miullo.nat@epa.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "P. S. Strobel".

Philip S. Strobel  
Acting Director, NEPA Compliance and Review Program  
Office of Ecosystem Protection and Remediation

cc: Greg Allington, McMillen, LLC  
Larry Crist, Utah Field Supervisor

